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THE EMANCIPATION OF THE FAMILY.

BY MONA CAIRD.

PART II.

AT THE time of the founding of Rome, the patriarchal system appears to have been fully established, with all the sentiments regarding women and family life which it encouraged. That system and those ideas became stereotyped in the ancient codes. Romulus is said to have been the author of the marriage laws and the laws of parental authority. They can boast a hoary antiquity, and can claim to have grown up and received their form and sanction from a nation which has given laws to the whole civilized world.

The position of women under Roman law has fixed and defined their position at the present day. It is remarkable how the idea of perpetual tutelage is still firmly rooted among us in a modified form, and how all the popular ideas of woman's sphere, duties, proper demeanor, and virtues are found in the singular system which made the wife as a daughter in her husband's house and her children as her brothers and sisters. The *paterfamilias* handed her over to the power of her husband, who then had the same rights of punishment and command of life and death which the father had previously enjoyed. He might even sell her into slavery. The paternal power in its extreme form began with the city itself; was legally established by Romulus, and after three centuries was inscribed on the fourth table of the Decemvirs. The twelve tables were regarded for ages as the epitome of wisdom and morality: the young learned them by heart; the old held them as little short of sacred. In the reign of the Emperor Augustus, Erixo roused the fury of the Roman people by whipping his son until he died. The Emperor saved him from their vengeance, the law being on the father's side. Gibbon speaks of the exposition of children in the public places, when the head of

the family wished to get rid of them, as "the prevailing and stubborn vice of antiquity."* The wife could not inherit except for her husband, and "if the original title were deficient, she might be claimed, like other movables, by the use and possession of an entire year." She was, legally, not a person, but a thing.

In modern times one must go to the Russian peasantry for an analogue to this development of the *patria potestas*. "If you cannot thrash your wife, whom can you thrash?" the head of the family demands indignantly. The marriage ceremony principally consists in the handing over by the father of his whip to the husband, with the advice to use it vigorously †

In Rome the family (as is, of course, well known) was not what we understand by the word. It was a group of kinsmen held together by its head, the kinship being counted through the male line only. Ties of blood, however, were of less moment than the fact of being under the family tutelage. Adoption was a legal process which gave the adopted child all the rights and liabilities of a genuine *agnate*. Gradually the law was modified, and in the reign of Augustus the laws Julia and Papia Poppæa were passed, which obliged fathers to provide their daughters with a dowry, and forbade them to prevent their marriage. Many other changes crept in, and at last the Emperor Justinian, in his reform of the whole body of Roman law, placed married and family life upon an entirely new footing. The husband lost his absolute control over his wife's dower, and in case of separation he had to restore it entire. Justinian seems to have desired to give to the wife an independence which was in direct opposition to the spirit of the old laws. It has often been said that during the five purest centuries of Roman history divorce was unknown. It is not generally added, however, that during that time women used to poison their husbands in a manner that not even respect for the sacred institution would probably now prevail upon men to put up with.

In the later times of the empire women attained a degree of freedom which is cited as the cause of the extreme corruption of that epoch and the decay of the imperial power. This explanation, if accepted, would oblige one to ignore all the influences which were at that time combining to destroy the strength and moral vigor of the people: the vastness of the empire, open

* "Decline and Fall of the Roman Empire," Chapter XLIV.

† "Impressions of Russia." Dr. Georg Brandes.

on all sides to attack ; the tyrannical form of government, which subjected a whole nation to the caprices of emperors half-mad with the intoxication of power and glory ; above all, the contact with the luxury and the vices of the East, where certainly it was not the freedom of women which had plunged the nations in corruption.

Moreover, the progress of decay had been going on for years, long before women achieved their independent position and divorce had become easy. Niebuhr goes so far as to trace the seeds of decay to the time of Hannibal. The condition of the nation at that time, after so many frightful wars, was one of extreme misery. The poor were ruined, the middle class impoverished ; the rich, on the other hand, had become imitators of Eastern luxury, self-indulgent, avaricious. The Roman games were now on a scale of extreme splendor ; the buildings of the nobles were magnificent ; their habits extravagant and brutal. Gluttony had become a fashionable vice. The constitution was democratic only in form. " No one," says Niebuhr, " thought of the republic being in danger, and the danger, indeed, was yet far distant ; but the seeds of dissolution were nevertheless sown, and its symptoms were already beginning to become visible."*

The freedom of divorce and the independence of women are made responsible for a condition of things which had already commenced in the time of Scipio. On this rough-and-ready principle, it would be easy to find causes for anything. Select any two facts that happen to be contemporaneous, and boldly attribute one to the other (it is immaterial in which order they are placed).

The later Roman jurisprudence, inaugurated by Justinian, became singularly liberal in its treatment of women. In the time of Gaius the system of perpetual tutelage fell entirely into discredit. The family rights remained nominally unimpaired. The family lent the wife to the husband, not relinquishing their claim. Thus the husband had no longer supreme power over his wife, and the appointed guardians of the woman left her, to all intents and purposes, to do as she pleased. The old religious form of marriage, in which the couple eat *far* or rice together, as a symbol of mystical union, had fallen unto disuse.

Confarreation (the religious form), coemption, and usus (the

* " Lectures on the History of Rome," Chapter LXXXI.

latter both civil forms) had been the old rites of marriage. Now a form of civil union, which had previously not been considered strictly reputable, came into more general use. The stricter enactments were altered or evaded, for there was no longer a feeling among the people corresponding to the spirit of these old laws, which for so many centuries had been unfitting women for liberty, and the whole nation for the liberal institutions which the Emperor Justinian had attempted to bestow upon it.

After the triumph of Christianity, there was a reaction against this liberty which the Roman women enjoyed, and against the easy laws of divorce. It seemed obvious to moral enthusiasts, careless of history, that the liberty and the easy divorce were the causes of the corruption; and Christian teachers declared themselves against both. This was the first check to the freer institutions: the next was given by the fall of the empire.

The conquering tribes brought with them their own laws and usages, their own patriarchal system; and thereupon commenced a process of compromise between the barbarian codes and Roman jurisprudence. According to Laboulaye, the *patria potestas* of the Romans and the *mundium* of the conquering tribes, although both representing the power of the chief, are quite distinct in character; the *mundium* being for purposes of protection for the "pupils," while the *patria potestas* was entirely for the power and advantage of the father. Among the Germans the wife and children are able to acquire a fortune and to spend it as they please, and the power of the father ceases when the child attains his majority. The daughter is released from the *mundium* on marriage, but she then passes under a more rigid government, from which nothing can liberate her. In ancient history the woman has been under the power of the father; modern history shows her under that of the husband.

Laboulaye* is much puzzled by a peculiarity in the Salic law, which certainly cannot be accounted for except by assuming it to be a remnant of the matriarchal age. The Salic law excludes women so long as there are males to succeed to the *allod*, or tribal land; but when the deceased chief leaves no children, the father and mother succeed together; secondly the brothers and sisters, and then the *sister of the mother, in preference to the sister of the father*. The *brothers* of the father or mother are not men-

* "Condition des Femmes," Laboulaye, *Chapitre XI*.

tioned. Quite inexplicable is this apparent exception to the leading idea of the Salic law on the exclusively patriarchal theory; but very familiar to the student of the matriarchal age is that choice of the mother's brother or sister for inheritance. This preference for the mother's sister occurs in the *lex Salica emendata* adopted by Charlemagne, and is consistent with the manuscripts of Wolfenbützel, Munich, and Fulda. Against these authorities, the attempt of *savants* in the last century to suppose an error in the texts, because they were unable to reconcile these incongruities in the law, seems somewhat audacious.* The Salic law, cries Laboulaye in despair, is full of inexplicable difficulties!

The habit of setting apart an inheritance for the bride was remarked by Tacitus. Something very nearly approaching settlements seems to have been made to a woman on marriage, and the church adopted the Roman idea that a marriage was not legal without a dower. The *Morgengabe*, or gift of the bridegroom, the day after the wedding, was an almost universal practice among the northern tribes. So large was often the gift that Luitprand thought it necessary to restrict it to a quarter of the husband's property among the Lombards. The Burgundians, Lombards, Visigoths, Saxons, had different laws of succession and marriage; in some the Roman law remained dominant, while in others the old Germanic ideas had full play. Women were greatly respected, but they were still under tutelage. If they attempted to resist the authority of the husband, they were "drowned in mud."

The canon law had a very profound influence upon matters of marriage and family life. It overcame the civil law in many instances. It opposed divorce with all its strength, and even looked askance at second marriage. Its position on this question was strictly logical. Marriage, being a sacrament, could not be broken in time or eternity. It is difficult to see how, on any other grounds, the theory of indissoluble marriage can be reasonably upheld. A union that is sacramental, sacred, indissoluble—except sometimes, has in it elements of the comic. The Reformation, however, deprived marriage of its sacramental character, while confirming its

*"Condition des Femmes."—"J'ajoute que la loi Salique n'est point la seule coutume barbare qui ait conservé des traces de cette préférence des femmes dans le cas dont nous nous occupons; la loi Ripuaire, par exemple." The Ripuary laws were, in almost all respects, similar to the Salic.

barbaric and tyrannical elements. The civil laws of the barbarians admitted divorce for murder, adultery, or magic. The German laws, unlike the old Roman codes, usually allow the mother to be guardian to her children. This was recognized among the Bavarians, Burgundians, and Visigoths. No agnate could interfere with the fortune and education of the children.

It is rather humiliating to remember that in England, till within a short time, the mother's right to guardianship was not recognized, that the father could appoint another guardian, excluding her, and that even now the devoted efforts of many liberal-minded men and women have not succeeded in obtaining for the mother her full rights to her children.*

A significant fact, which does something to tone down the impression given by Tacitus of the reverence and almost religious veneration in which the German women were held is that, if one of them were carried off from her home and during her exile had children, these children were regarded as belonging to her husband, on the ground that she was *in mundium*—that is, she was his property, honestly purchased, and consequently her children were his also.

In more or less modified forms, this patriarchal idea has ruled the family with remarkably little change—considering the vast changes that have taken place in other respects—to our own day. Feudalism tended to confirm it. In chivalry alone we find the origin of all ideas that modify and ennoble the former relations of the sexes. Thus we have a sort of lopsided development—a forward move in one direction, checked or held back by the immovable family relations, the continued tutelage and subjection of women. The family gradually lost its old position as the social unit, and the individual took a more prominent place; yet this change was also confused and rendered half-futile, because only male individuals were able to assume this attitude of independence. Society gradually organized itself on the individualistic basis, leaving the woman without the protection which she used to enjoy under the old group, or family, system, yet without giving her the compensating advantages of the new order. She lost security without gaining freedom. She still suffered every sort of disability, legal and social; she still remained without choice of occupation; still had her sphere and her duties,

* Custody-of-Infants Bill : 1886.

her virtues and opinions—nay, her very feelings—chosen for her ; yet there was now no certainty of support, no absolute legal claim which would keep her safe from the rush and scramble of the modern competitive world, where each is for himself and the devil takes the hindmost.

The woman crippled by inherited inaptitude for self-reliance, with adverse public opinion, stubborn prejudices, not only of others, but in herself ; with a thousand inborn fears, instincts, longings, needs ; with a physical nature trained for centuries to one end and purpose, weakened for all others ; and dowered with exquisite sensibilities, unending capacity for pain,—the woman of the nineteenth century finds the old shells and sheath of a decaying patriarchal system drawn away from her ; she finds herself restrained on all hands, but no longer protected and provided for. She sees her brothers going into the world with a thousand advantages, to her denied. For them a good education, encouragement in study, fostered talents, cherished opportunities. For them a good start in life, so far as lies in the power of parents to bestow, and on the father's death the inheritance of the bulk of his property, to the exclusion of the daughters, whose profession is to marry, and so provide themselves with a home and competence.

But into this necessity (for it is scarcely less) the modern spirit of competition enters. The social unit is no longer the family in the old sense : it is now the individual, and the individual has to contend with other individuals for the very ground on which he stands and the air—or, rather, the carbonic acid—which he breathes. Thus the woman must struggle with other women for the sole means of livelihood that has hitherto been recognized as fitting for her sex : the family claims from her duty and obedience, as of old,—though its rights are, of course, becoming much attenuated,—but it expects her to provide for herself. Her attractions are her capital ; let her invest it to the best of her ability. On no account must she go out of her “sphere” ; but the fact is sometimes overlooked that she is by no means certain of finding that “sphere,” though she be ever so willing to be dictated to on the subject of what she must and must not do. If she does achieve this end, or, rather, “sphere,” she is still under the old condition of tutelage as far as restraint goes, but she is now treated as an individual as regards respon-

sibility. If she sins, she is punished ; it is only in matters to her advantage that she remains under tutelage. She may pay taxes, but she may not vote ; she may be divorced for unfaithfulness, but she may not divorce.

In entering the marriage relation (humorously called a contract), she takes upon herself a tie infinitely more stringent, infinitely more imperious and extensive in its action, than the bond into which the man enters. Yet here also, though less free, she is equally responsible—nay, really far more so ; for what is a man's sin against the claims of marriage compared to the woman's, in popular estimation ? I do not contend that this injustice was absent from the old system, for in that also, although a *thing*, the woman was often punished as a *person* ; nevertheless the family felt bound to provide for and protect her ; if she were carried off or injured, a *Wehrgeld* was charged to the offender, not, perhaps, so much on her account as for the sake of her value to the tribe ; but the *Wehrgeld* in some of the states was twice as high for a woman as for a man, as if with the object of giving her extra protection. If a woman had a grievance against any one outside the family, one of the men was told off to fight with him—a duty which the woman occasionally performed for herself.*

The notion of protection and duty towards the woman under tutelage was much stronger under the full-blown patriarchal system than under our own ; the ideas of subordination on the part of women have outlived those of their claims ; the dower, once a matter of course, now is the exception, and the old *Morgengabe* has dwindled down to a diamond ring or trinket.

There are some people who would not be sorry to see the old system restored in its entirety ; believing that women are unfitted for independence, and that their best qualities will disappear if they become free and self-sustaining in all the relations of life. It seems strange that any one can be unresponsive to the idea of freedom or regard it as unsuited to any human being worthy of the name. Still the idea is at least logical ; it has an artistic unity, and gives room for argument. But he who would uphold the present confused, patriarchal, competitive, woman's-sphere-and-woman's-responsibility condition of things can have no principle of any kind to stand upon ; he must be simply an echo or reflection of what exists around him, without the power of a genuine reac-

* "*Condition des Femmes.*"

tionary or the foresight of a progressive thinker. It seems abundantly clear that she who is treated as a minor must be provided for and protected as a minor. On this idea the swarms of women earning their own living at ill-paid work are an anomaly.

On the other hand, if the woman is to share in the change which has reorganized society, if she is to be held responsible for her actions, and expected to earn her living either by competing with others for a husband, or by some other means, then, undeniably, she must be freed from every possible disability—the long, monotonous, one-sided training of the past has already loaded her with too many of these ; she must be admitted on equal terms to the banquet of life, and nothing—no matter how shocking to our previous ideas of her place, her qualities, her virtues, her “nature”—must be forbidden her. There is no rational alternative.

The present condition is evidently without consistency, without reason or principle, and indicates a mere confused stage between two orders—the old and the new. Society has before it a hard task. It has to reconsider its economic and industrial system ; to face the danger to the race involved in the still greater pressure of competition which would follow the addition of women to the ranks of paid workers. It is evidently unfair to refuse to admit a whole sex to this competition ; it is evidently a further burden, a rivalry to the harassed male workers, if their sisters are freely admitted on equal terms.

What is to be done ? The obvious answer appears to be, Instead of being rivals, become coöperators. Some such change of system, however it may be organized, grows every day more necessary. Meanwhile the spirit of liberty among women is increasing rapidly, and as soon as economic independence gives them the power to refuse, without harsh penalty, the terms that men have hitherto been able to dictate to them, in and out of marriage, society will have passed through a bloodless revolution. It is then that marriage—at present a mere mouldering branch of the patriarchal tree—must alter its nature and its form ; not by the modification of a few laws, but by the altered conception of a whole people.

Few seem yet to have realized what the independence of women would really mean, and how absolutely our present forms and ideas of marriage hang upon their subject condition. Those

who have opposed the smallest relaxation of the old laws, who have resisted the education and progress of women, were from their own point of view eminently wise; for upon the old condition of tutelage hung many a cherished belief, many a "sacred institution." It has been easy hitherto to maintain stringent forms of marriage, because the real brunt of it has been borne by women, while men have been comparatively free. Is it conceivable that when there are, in good sooth, really two to the marriage bargain, one of the parties to it will consent to fetter herself by bonds which the other repudiates? The "contract" can no longer remain unequal, and it remains to be seen how tight and irrevocable men will be willing to make the bond which they, too, must literally carry out. All men who are eloquent about the "sacred institution" will know that it rests upon them to sustain the sacredness which they will then, perhaps, less glibly talk about. They can no longer depute that office to their wives, together with the children and the cares of housekeeping. The "sacredness" which depends on restraints and punishments for its existence can then be fairly considered on its merits.

How tremendous must be the change which the independence of women, if achieved, would introduce into the whole conception of social and family life, is made more strikingly evident by remembering the almost incredible position which the married woman held, as regards her children, before the passing of the Custody-of-Infants Bill in 1886. Upon laws of this kind what we have been pleased to call the "sanctity of marriage" has, for centuries, been peacefully resting. Before 1886 the father of a legitimate child was, as far as legal rights are concerned, its sole parent, "though the law imposes upon the mother, under criminal and other penalties, liabilities and obligations almost equal to that of the father."*

The case is reported of a girl who applied to the court for permission to spend her holidays with her mother, the latter being separated from her husband for no fault of her own. The court refused on the ground that the father's rights were sacred. "With these sacred rights the court has not interfered, and will not interfere." Only in the most extreme cases of cruelty to the child would these rights be set aside. The father, says Lord-Chan-

* "The Infants Act, 1886. A Record of a Three Years' Effort for Legislative Reform, with its Results."

cellor Hardwicke, "is entitled to the care of his own children, by nature and by nurture." This view seemed eminently reasonable to august opponents of the bill. It is amusing to observe their horrified indignation at the bare thought of the father having to act with a guardian appointed by the mother, although the latter, according to law, might be *altogether excluded* from guardianship in favor of some one of her husband's appointment, and the utmost she could expect would be the privilege (in *her* case—in *his* the humiliation) of acting with another guardian.

Even to this day the mother becomes sole guardian only when no other has been appointed by the father. She can appoint a guardian to act after her own and her husband's death, but not to act *with* her husband (as he can appoint one or more to act with her) unless he is declared by the court to be unfit to have sole charge. Thus even this bill, fought for so devotedly by its friends, has been deprived of its principle of equality, and retains the spirit of the older laws of tutelage and patriarchal rule. The fifth clause is supposed to be a great triumph for the mother, because it empowers her, even while living with her husband, to apply to the court on any question regarding the custody of the children, or other important matters; and the court is actually directed to have regard to the wishes "as well of the mother as of the father."

Our country is to be congratulated on this achievement, and on the liberality of our law, which discerned fully four years ago that a child generally has two parents, and that one of them, though comparatively unimportant,—even verging on the superfluous,—might feel hurt if her existence and wishes were altogether ignored. Naturally there is no necessity to allow this little politeness to interfere with rights more sacred, resting, as Lord Salisbury pointed out, "on far deeper foundations than most of those which we have deemed firmly established."

Immense is the benefit which mothers enjoy under that bill of 1886; yet even now their position is subordinate. The woman who bears, suffers, risks her life, rears, trains, watches—of whom, indeed, the law demands these things, as well as public opinion—she whose body and soul have been subjected to this terrible service—has still only secondary rights to her children; she must still take the small mercies of the law and be thankful. Indeed, she has reason to be, seeing that four years ago she had no rights at all!

Consider all this in conjunction with the tremendous rigor with which maternal duties are pressed upon a woman; with the demand that she shall surrender to her children health, happiness, self-development, interests, pleasures; with the unbounded, merciless condemnation which is heaped upon her if she prove a neglectful or unenthusiastic mother: so amazing are the two ideas in combination that the sense of the stupendous injustice is almost swallowed by the sense of the stupendous absurdity, and—as happily often happens in the study of English law and English opinion—the stress of indignant and despairing feeling finds timely relief in a burst of laughter!

Upon stupendous absurdities like these the sacredness of marriage has for centuries been resting. Father and mother are to share pleasantly between them the rights and duties of parenthood—the father having the rights, the mother the duties. No wonder there was opposition to the bill of 1886. They were dear privileges that it attacked. Upon such a groundwork indissoluble marriage would securely last forever.

If we could only realize how fundamental, in our ideas of family and social life, is the old patriarchal feeling, how strong it still is in all our laws, we should then more clearly see that marriage, with its one-sided obligations, is not a thought-out, rational system of sex-relationship, but a lineal descendant of crystallized barbarian usages, cruel and absurd even when the warlike condition of society gave them some color of reason; revolting now to all ideas of human justice and of dignity. While society, in other directions, has been moving and changing, ideas on this subject have remained stagnant. This is the last citadel of the less intelligent kind of conservatism, and it has been defended with the ferocity and jealousy with which one instinctively fights for a last hope. History and science are rapidly undermining it; removing those imaginary foundations in the “will of God” or the “ordinance of nature” on which so many happy theories have been built. Under the new light of knowledge, the favorite satires of men against women lose their brilliancy; they sound stupid and ungenerous, like the taunts of gaolers against their half-starved prisoners.

To bring the institution of marriage up to date is among the next great tasks of progressive civilization. So far has it lagged behind that this proposal sounds like a proposal to break up so-

ciety altogether. So much the worse for society. Politically, we have had to learn the difficult lesson of liberty; to recognize the enormous importance to the state of the spontaneity of each individual, and the uselessness of the most perfect state machinery, without citizens who are free to make blunders if they will, and to serve their country with the intelligence and the public spirit which are the outcome of freedom. Politically we have learned our lesson well; so well that we are disposed to think that the principle of liberty forbids us to reconsider or alter our industrial system, because the change would interfere with certain rights enjoyed by individuals under the present order, and therefore *strictly conditional upon it*—an idea showing a strange confusion of thought. But we have not learned to apply this wholesome and bracing principle to social, and still less to family, life. As soon as we do apply it boldly, unswervingly, the present marriage system stands arraigned, offending as it does against every principle of liberty and equality, against the rights and duties of the individual, against the strength and vitality of the state, which lives or languishes as its individuals grow or decline in the qualities of independence, original power, and vigor of character.

A tie, such as marriage under its present conditions, which tends to level down differences of opinion, to check and restrain whatever is strong and salient, to glorify mediocrity, submission, one-sided self-sacrifice, uniformity of life, feeling, and even such details as mode of living, dress, and manner—such a tie is like a strong cord tightly twisted round the neck of a living creature, impeding all the functions of existence. We have abandoned *some* of the patriarchal rights: why do we not take them all away? Why do we not sweep from our state these remnants of a system which we repudiate utterly as far as political questions are concerned, which is out of touch with modern ideas, but whose influence we still keep warm and active at the very heart of our life, in the home, where the history of the coming generations is preparing?

That marriage in its present form and the subjection of women are interdependent will surely not be denied by any thinker. If women had shared with men the privilege of making the laws, it is clear that marriage would not have bound the two sexes unequally; and it seems very unlikely, if both law and opinion had

insisted on men really submitting to the conditions of this institution, that they would have made it so inflexible and so irrationally harsh in its demands. They would then have seen the incongruity of the ideas of "sanctity" and enforced union, and the cruelty of ruining so many lives in the supposed interests of society, which the marriage law does its best to fill with miserable homes.

The right of private contract is a right very dear to a liberty-loving people ; yet in the most important matter of their lives—one which affects the present and the future for themselves and for their country—they have consented to forego it !

Mere alterations of the law will not accomplish the change of feeling which the temper of the age must gradually work in all ideas that concern men and women.* The law seldom, if ever, precedes average opinion. But as opinion develops in the direction of contract marriage (supposing that it *does* in this regard claim what has been claimed in all others), the safeguards will tend to form themselves with the opinion. A contract system, at first with careful limitations, might slowly drop its restrictions, as experience proved that the education of the nation had fitted it for the just enjoyment of the new liberty. So long as the idea holds that a husband or a wife must, in assuming that character, consent to subscribe to a set of conditions decided by some other persons, and that if these conditions are not assented to, honorable union (as society considers) is impossible, so long will freedom be lacking in the most important relation in life ; so long will the right of private contract be denied.

The extreme danger or difficulty of allowing people, under gradually lessening restrictions, to make their own marriage bargain seems a fiction of the imagination, especially when we consider that every one is more disposed to hold to an agreement which he himself has made than to that which has been made for him. Under such freedom, it must be remembered, all children would be the children of mothers who bore them willingly, because they wished for them—not simply because they were married and thought it therefore right to bear them, or feared to express an unpopular distaste for this so-called duty. The sense of responsibility would, in such a case, be very great, and it would

* Some aspects of this question I have dwelt upon in an article in the *Fortnightly Review*, for March, 1890, and I will not, therefore, more fully treat it here.

surely act as a restraint upon the caprice or inconstancy of parents. In the cases where it did not have this effect, the law would protect children against neglect or ill-usage.

I firmly believe that the condition of children under a freer, more developed social life would be infinitely happier and better, even when their parents were divorced, than are the children of average undivorced parents who live undissentingly under the present marriage system. In the shelter of "happy homes," under the care of ignorant nurses or overworked mothers, deprived, through lack of knowledge, of physical advantages often of the simplest kind, of reasonable training, healthful interests and recreation, the unlucky children, for whose fate under a freer system so much anxiety is expressed, are now enduring a thousand wrongs, and suffering in a thousand unnecessary ways, because on this subject the majority of parents still cling to the superstitions of great-grandmothers, whose words of wisdom are handed down, pure and unadulterated, from mother to daughter, assisted, generation after generation, by such lore of old nurses as may happen to attach to them *en route*.

Any change bestowing greater freedom, increasing the sense of responsibility, and extirpating the enchained ideas that marriage necessarily implies children, and motherhood the power of rearing and training them, would be the beginning of a happier future for the ill-used little beings, whom we make serve as apologies for the old-established tyranny which we have not yet rebelled against in our domestic institutions.

What I would advocate, as regards this great question, is the adoption of the ideal of individual liberty, not only in political matters, but in social and in family life. The home, where at present the love of liberty has scarcely dared to show its face, I would make its very temple. Without irreverence for the past, we must see that the time has fully come for us to throw off the tyranny of surviving superstitions which are holding us back and causing a dislocated social condition, because in public matters, and for one sex, we are working on the principle of individual liberty and the right of private contract; while in all the relations of home and family, and for the other sex, we are still guiding ourselves with the shreds and tatters of a by-gone order which is no longer able to afford us any sound support.

When marriage and domestic life have been brought up to the tide-line of general progress, we shall have entered upon a new era. Then, and not till then, ought we to regard ourselves as having left behind us the shadows of the "dark ages"; then, and not till then, can the discoveries of science, the development of education and thought, begin to take their full and beneficent effect upon the race and its future growth; for then only will the *whole* race be open to all the influences of the age, and able to use its power in a more or less united effort toward enlightenment. Hitherto we have been carefully fostering in our midst a school of superstition, to which we intrusted the task of fortifying the minds of the rising generation against all the knowledge which the contemporary schools of philosophy and science were laboriously endeavoring to acquire and promulgate. Equal political, social, and domestic rights for the two sexes; the economic independence of women (hanging in a great measure on the evolution of our industrial system); the establishment, rapid or gradual, as may prove desirable, of free marriage,—this at last would bring us to the end of the patriarchal system.

May we speed the parting guest!

MONA CAIRD.